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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,368	04/30/1999	MARION SCOTT BRIGHT	BU9-99-021	8261

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EXAMINER
O CONNOR, GERALD J

ART UNIT	PAPER NUMBER
2167	14

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/303,368	Applicant(s) Bright et al.
	Examiner O'Connor	Art Unit 2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *November 29, 2001 (Request for Reconsideration)* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1, 3-4, 6, 8-9, 11, 13-24* is/are pending in the application.

4a) Of the above, claim(s) *none* is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1, 3-4, 6, 8-9, 11, 13-24* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

DETAILED ACTION

Preliminary Remarks

1. This Office action has been prepared in response to the arguments and request for reconsideration filed by applicant on November 29, 2001 (Paper Nº 13), in response to the prior Office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3-4, 6, 8-9, 11, and 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn et al. See, in particular, Figures 13 and 15.

Blinn et al. clearly anticipates all of the substantive elements of the instant invention, except that the system of Blinn et al. is an integrated, unitary system, performing all necessary processing steps/functions, whereas the system contemplated by the instant invention, while performing exactly the same steps/functions overall, merely splits the various processing steps/functions out into two separate processing systems, a "pre-processor" and a "processor."

Thus, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Blinn et al., so as to split the processing steps/functions out into two separate modules or processing systems, a "pre-processor" and a "processor," in order to improve overall system performance/throughput, since it is well settled that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

4. Claims 1, 3-4, 6, 8-9, 11, and 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al.

Johnson et al. clearly anticipates all of the substantive elements of the instant invention, except that the system of Johnson et al. is an integrated, unitary system, performing all necessary processing steps/functions, whereas the system contemplated by the instant invention, while performing exactly the same steps/functions overall, merely splits the various processing steps/functions out into two separate processing systems, a "pre-processor" and a "processor."

Thus, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Johnson et al., so as to split the processing steps/functions out into two separate modules or processing systems, a "pre-processor" and a "processor," in order to improve overall system performance/throughput, since it is well settled that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Response to Arguments

5. Applicant's arguments filed November 29, 2001 have been fully considered but they are not persuasive.

6. Regarding the argument that the system of Blinn et al. "is not split into a pre-processing stage and a processing stage," applicant is correct, it is not. If such were the case, the claims would have been rejected under 35 U.S.C. 102 as anticipated, rather than being rejected under 35 U.S.C. 103 for being obvious. A legal precedent is sufficient to establish a prima facie case of obviousness when the facts in the prior legal decision are sufficiently similar to those in an application under examination, as is the case here. As explained in the rejection, merely taking a known device and simply dividing it into pieces which together accomplish the same overall result is considered inherently obvious, as it is well settled that such a modification involves only routine skill in the art. The same response applies to applicant's arguments vis-à-vis Johnson et al.: that the system of Johnson et al. cannot be split into two systems because Johnson et al. do not disclose splitting the system into two systems, and that the system of Johnson et al. is not split into two systems. Again, it is considered inherently obvious to divide what is known into multiple pieces which accomplish the same overall result, since it is well settled that such a modification involves only routine skill in the art. For a further explanation of this type of obviousness rejection based on legal precedent, applicant can refer to MPEP § 2144.04.

7. In response to applicant's argument that the references applied in the rejection fail to use the same names for certain elements as the names used by applicant (i.e. "pre-processing" and "processing" versus "processing"), the argument is irrelevant, as it is noted that the disclosure in a reference must show the claimed elements arranged in the same manner as in the claims, but need not be in the identical words as used in the claims in order to be anticipatory. See *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to the disclosure.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525.

GJOC

January 30, 2002

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
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